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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

February 6, 2001

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
455 12th Street, SW, TW-A325
Washington, DC 20554

Re: *Ex Parte Presentation, Notice of Proposed Rulemaking,
Automatic and Manual Roaming Obligations Pertaining to
Commercial Mobile Radio Services, WT Docket No. 00-193*

Dear Ms. Salas:

Cingular Wireless LLC ("Cingular") submits this written *ex parte* to supplement the record in response to comments submitted in this proceeding. This original is accompanied by two copies pursuant to Section 1.1206(b)(1) of the Commission's rules.

In its initial comments, Cingular argued that the competition in the marketplace is sufficient to promote automatic roaming among carriers and, thus, the adoption of an automatic roaming rule is not necessary. Cingular Comments at 2-4. The record reflects strong opposition to mandatory automatic roaming.¹ Commenters noted that the current regulatory approach to automatic roaming has fostered competition among CMRS carriers. *See, e.g.*, CTIA Comments at 3; Sprint Comments at 10. As noted by the NTCA, under the current system small and rural carriers are bolstered because large carriers have a strong incentive to negotiate automatic roaming agreements with "all surrounding carriers" in order to enhance their footprint and promote their services. NTCA Comments at 5; *see also* Verizon Comments at 4. Moreover, the current regulatory framework has promoted competition by encouraging the aggressive build-out of PCS networks. Sprint Comments at ii.

¹ *See* Cellular Telecommunications & Internet Association ("CTIA") Comments at 2-4; Leap Wireless International ("Leap") Comments at 4; National Telephone Cooperative Association ("NTCA") Comments at 4-5; Nextel Comments at 4-5; Rural Cellular Association ("RCA") Comments at 3-4; Sprint PCS ("Sprint") Comments at 10; United States Cellular Corporation Comments at 4-5; Verizon Wireless Comments at 2, 5. Cingular notes that all of the cellular and PCS carriers participating in this proceeding, with the exception of Corr Wireless, opposed the adoption of an automatic roaming rule. Corr's concern focused on Cingular's decision to redirect its roaming traffic to a competing carrier in Corr's market, rather than pay excessive roaming rates. The current rule requirements were designed to foster competition. Today's regulatory framework has allowed carriers "to provide both the small and large carriers with the flexibility to pursue automatic roaming agreements in those situations where it is mutually beneficial." NTCA Comments at 5. The negotiations between Corr and Cingular simply represent the competitive marketplace at work.

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This deregulatory framework has yielded significant public benefits. CTIA notes that carriers are able “to harness market forces to protect their customers from excessive [roaming] charges.” CTIA Comments at 4. Indeed, competition for roaming dollars has led to a drop in roaming rates and a marked increase in roaming minutes used. CTIA Comments at 4; *see also* Leap Comments at 3. Furthermore, the build-out of PCS networks has provided customers with a larger pool of carriers and service offerings to choose from.

Conversely, commenters argue that the adoption of an automatic roaming rule would not be in the public interest as it would result in rate increases, poorer quality of service and fewer choices for consumers. *See, e.g.*, RCA Comments at 4. Cingular anticipates that a mandatory automatic roaming would generate increased administrative costs for carriers, and require carriers to apply significant resources toward purchasing and installing equipment that is capable of accommodating the additional capacity needed to serve all of the carriers requesting automatic roaming agreements. Cingular Comments at 8. Such a rule also would strongly diminish the incentives for carriers to build out their networks and permit carriers that fail to build out their networks to rely on the superior coverage of its competitor. *See* CTIA Comments at 7.

In light of the successful build-out of PCS networks fostered by the current roaming requirements, Cingular believes that manual roaming regulations should sunset once broadband PCS providers’ initial five-year build-out periods are completed. As Cingular noted in its comments, “the industry has been moving away from manual roaming arrangements, opting instead to pursue automatic roaming agreements that would allow carriers to provide seamless coverage.” Cingular Comments at 10. With the maturation of PCS networks, the manual roaming requirement is becoming obsolete. In the interest of streamlining regulations, the manual roaming requirement should be permitted to sunset.

In response to the comments of the Independent Cellular Services Association (“ICSA”) and MT Communications regarding the use of non-subscribed phones for 911 calls, Cingular believes that the elimination of the manual roaming requirement would not negatively impact these 911 programs. Elimination of the manual roaming requirement does not mean the capability will be eliminated. Carriers will still offer manual roaming if such a capability were desired in the marketplace. Thus, individuals desiring to make a collect, credit card, or calling card call from these phones may be still be able to do so without a manual roaming requirement in place. Cingular further notes that the purpose of offering unsubscribed phones for 911 services is to provide targeted groups with the ability to access 911 services in cases of emergency. These phones were not intended as general communications tools, and thus would serve as valuable devices even if the elimination of the manual roaming requirement would limit the use of such phones strictly to 911 calls. If there are concerns about the additional burden of non-911 calls being made through unsubscribed phones, carriers can choose to participate in educational programs to reduce the amount of non-911 calls made from such phones. If such abuses continue, carriers could condition the continued use of such phones for emergency calls only.

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Accordingly, the Commission should decline to adopt an automatic roaming requirement and allow the manual roaming requirement to sunset at the end of a PCS licensee's initial five-year build-out period.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Fontes". The signature is stylized with a cursive script.

Brian Fontes
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